

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: ANNA E. ARREOLA
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 2/20/08
DATE FILED: 2/20/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x
UNITED STATES OF AMERICA,

Plaintiff, : 07 CIV. 8326 (RPP)

- v. - :

\$42,000.00 IN FUNDS FORMERLY
HELD AT WESTCHESTER BMW IN THE
NAME OF ELVIN CONCEPCION, AND
ANY AND ALL PROPERTY TRACEABLE
THERETO,

STIPULATION AND ORDER OF
SETTLEMENT

Defendant-in-rem. :

WHEREAS, on or about May 7, 2007, members of the Drug Enforcement Administration (the "DEA") seized \$42,000.00 in funds that were being held at Westchester BMW in the name of Elvin Concepcion (the "DEFENDANT FUNDS");

WHEREAS, the DEA subsequently initiated administrative forfeiture proceedings against the DEFENDANT FUNDS by serving notice of the action and advertising the seizure;

WHEREAS, Guillermo M. Concepcion ("Concepcion or the "Claimant") thereafter filed a claim with the DEA opposing forfeiture of the DEFENDANT FUNDS;

WHEREAS, in light of the administrative claim, the United States of America commenced this action, on or about September 24, 2007, by the filing of a verified complaint, pursuant to 21 U.S.C. § 881(a)(6), seeking forfeiture of the DEFENDANT FUNDS, on the ground that they constitute moneys furnished or intended to be furnished for a controlled substance, proceeds traceable to such an exchange, and/or moneys used or intended to be used to facilitate such an exchange;

WHEREAS, Concepcion subsequently filed an answer on behalf of himself asserting a claim for the DEFENDANT FUNDS;

WHEREAS, notice of the verified complaint and in rem warrant against the DEFENDANT FUNDS was published in the New York Law Journal on October 11, 2007, and proof of such publication was filed with the Clerk of this Court on January 9, 2008 (Exhibit A);

WHEREAS, the Government sent notice of the verified complaint, via certified mail, to Elvin Concepcion and his attorney, on or about October 2, 2007, and received return receipts confirming delivery of those letters (Exhibit B);

WHEREAS, the Government knows of no other persons having an interest in the DEFENDANT FUNDS, no other parties have filed a claim in this action, and the requisite time periods in which to do so, as set forth in 18 U.S.C. § 983(a)(4)(A) and Rule G of the Supplement Rules for Admiralty or Maritime Claims and

Asset Forfeiture Claims, have expired;

WHEREAS, the Claimant, admitting no wrongdoing in connection herewith, has agreed to settle this manner;

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED, by and between Michael J. Garcia, United States Attorney for the Southern District of New York, by and through Assistant United States Attorney Anna E. Arreola, and the Claimant, by and through his attorney, Theodore S. Green, Esq., that:

1. The United States Marshals Service shall issue a check in the amount of \$13,860.00, and made payable to "Guillermo M. Concepcion and Theodore S. Green, Esq.," and mailed to Theodore S. Green, Esq., Green & Willstatter, 200 Mamaroneck Avenue, Suite ~~408~~⁶⁰⁵, White Plains, New York 10601.

2. Claimant shall withdraw his claim to the remainder of the DEFENDANT FUNDS, consisting of \$28,140.00 in funds, and that sum shall be and hereby is forfeited to the United States.

3. Claimant is hereby barred from asserting, or assisting others in asserting, any claim against the United States of America ("USA"), the Department of Justice ("DOJ"), the U.S. Attorney's Office for the Southern District of New York ("SDNY-USAO"), the United States Marshals Service ("USMS"), and the DEA, and any agents and employees of the USA, the DOJ, the SDNY-USAO, the USMS, and the DEA, in connection with or arising out of the seizure, restraint, and/or constructive possession of

the DEFENDANT FUNDS, including, but not limited to, any claim that there was no probable cause to seize and/or forfeit the DEFENDANT FUNDS, that the Claimant is a prevailing party, or that the Claimant is entitled to attorney's fees or any award of interest.

4. Claimant represents that he is the sole owner of the DEFENDANT FUNDS and agrees to hold harmless the USA, the DOJ, the SDNY-USAO, the USMS, and the DEA, as well as any and all employees, officers, and agents of the USA, the DOJ, the SDNY-USAO, the USMS, and the DEA, from any and all claims in connection with or arising out of the seizure, restraint, and/or constructive possession of the DEFENDANT FUNDS, including but not limited to any third-party claims of ownership of the DEFENDANT FUNDS.

5. Claimant hereby agrees to waive all rights to appeal or otherwise challenge or contest the validity of this Stipulation and Order.

6. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of the Claimant, Plaintiff or any of their respective agents, officers or employees, past and present. Further, this Stipulation and Order shall in no way constitute any reflection upon the merits of the claim and defenses asserted respectively by the Plaintiff and the Claimant.

DE :
02/14/2008 16:04 FAX 9149488730NO. DE FAX :
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914-948-2730

7. Each party shall bear its own costs and attorney's fees.

8. This action is hereby dismissed with prejudice and without costs or disbursements.

Agreed and consented to:

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff

By:

Anna E. Arreola
ANNA E. ARREOLA
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
(212) 637-2218

DATE

Guillermo M. Conception, Claimant

By:

Guillermo M. Conception
GUILLERMO M. CONCEPCION

DATE

By:

Theodore S. Green
THEODORE S. GREEN, ESQ.
Attorney for Guillermo M. Conception
200 Mamaroneck Avenue, Suite 605
White Plains, New York 10601
(914) 948-5656

DATE

so Ordered: February 19, 2008

Robert P. Patterson Jr.
HONORABLE ROBERT P. PATTERSON
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK
County of New York, s:

USA-338-100-NOTICE OF
CIVIL FORFEITURE
PROCEEDING Rev. 11/94

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK — On September 24, 2007, the United States of America commenced a civil action demanding forfeiture, pursuant to 18 U.S.C. § 981(a) (1) (A) and 21 U.S.C. § 881(a) (6), of \$42,000.00 in funds formerly held at Westchester BMW in the name of Elvin Concepcion, and any and all property traceable thereto.
07 Civ. 8326

Notice is hereby given that all persons claiming the same or knowing or having anything to say why the same should not be forfeited pursuant to the prayer of said complaint, must file their claim in accordance with the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions with the Clerk of the Court, in Room 120, United States Court House, 500 Pearl Street, New York, New York, by November 12, 2007, which is 30 days after the last publication of this action or within such additional time as may be allowed by the Court, and must serve their answers within 20 days after the filing of their claims, or default and forfeiture will be ordered. Any person with an interest in the property may also wish to file a petition for remission or mitigation of the forfeiture, as provided for in Title 28, Code of Federal regulations, and failure to file such a petition may affect any rights that a person claiming an interest in the property may have with respect to this property.

Dated: New York, New York October, 2007
MICHAEL J. GARCIA
U.S. Attorney/SDNY
JOSEPH R. GUCCIONE
U.S. Marshal/SDNY
901744 011-1t

Cynthia Byrd, being duly sworn, says that she is the PRINCIPAL CLERK of the Publisher of the **NEW YORK LAW JOURNAL**, a Daily Newspaper; that the Advertisement hereto annexed has been published in the said **NEW YORK LAW JOURNAL** one time on the 11th day of October, 2007.

TO WIT: OCTOBER 11, 2007

Cynthia Byrd

SWORN TO BEFORE ME, this 11th day

Of October, 2007.

J. Hannafey

Jennifer Hannafey
Notary Public, State of New York
No. 01ha6128042
Qualified in Richmond County
Commission Expires June 09, 2009



Csh.A

Service of Process:

1:07-cv-08326-RPP United States of America v. \$ 42,000.00 In Funds Formerly held at Westchester BMW in the name of Elvin Concepcion, and any and all Property Traceable Thereto

ECF

U.S. District Court

United States District Court for the Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Arreola, Anna on 1/9/2008 at 10:45 AM EST and filed on 1/9/2008

United States of America v. \$ 42,000.00 In Funds Formerly

Case Name: held at Westchester BMW in the name of Elvin Concepcion, and any and all Property Traceable Thereto

Case Number: 1:07-cv-8326

Filer: United States of America

Document Number: 9

Docket Text:

SERVICE BY PUBLICATION. A Notice of Civil Forfeiture was published in the New York Law Journal on October 11, 2007. Document filed by United States of America. (Arreola, Anna)

1:07-cv-8326 Notice has been electronically mailed to:

Anna Elizabeth Arreola anna.arreola@usdoj.gov,
USANYS.ECF@USDOJ.GOV

Theodore Samuel Green theosgreen@msn.com

1:07-cv-8326 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1008691343 [Date=1/9/2008] [FileNumber=414623
[7f29cbd4e6ef4567a0056b4d54bdb0aae4651a7b40616642d06127d039472143
e80b440f22e084175898d0b1b483c6beb700e09ff030ab9b0f5393f5ec21]]

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Cyr. B



*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 2, 2007

BY CERTIFIED MAIL

Rene Medina, Esq.
901 Sheridan Avenue, 3rd floor
Bronx, New York 10451

Re: United States v. \$42,000.00 In Funds Formerly Held At Westchester BMW
In The Name of Elvin Concepcion, and Any And All Property Traceable Thereto
 07 Civ. 8326

Dear Mr. Medina:

This letter is to advise you that on September 24, 2007, the United States commenced a civil action in the United States District Court for the Southern District of New York seeking the forfeiture of the above-referenced sum pursuant to 21 U.S.C. § 881(a)(6) and 18 U.S.C. § 981(a)(1)(A) as property traceable to an exchange of a controlled substance and/or property intended to be used in exchange for a controlled substance. A copy of the complaint in this action is enclosed.

Should your client wish to contest the forfeiture, he must do so by filing a claim pursuant to Rule G of the Supplemental Rules for Admiralty or Maritime claims and Asset Forfeiture Actions with the Clerk of the Court no later than thirty five (35) days of the date of this letter. In addition, within twenty (20) days after filing a claim, your client must file his answer to the complaint. This procedure must be followed regardless of any petition for the remission or mitigation of forfeiture which they may have pending, and failure to do so could result in the entry of a default judgment against the property.

Respectfully,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

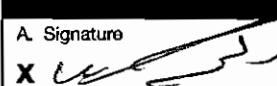
By: Anna E. Arreola
ANNA E. ARREOLA
Assistant United States Attorney
Tel. No.: (212) 637-2218

Enclosure

cc: Elvin Concepcion (By Certified Mail)

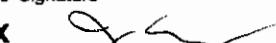
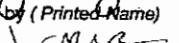
**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

4667			
4412	Postage	\$ _____	
0003	Certified Fee		
0000	Return Receipt Fee (Endorsement Required)		
0360	Restricted Delivery Fee (Endorsement Required)		
7001	Total Postage & Fees	\$ _____	
Postmark Here			
Sent To Elvin Concepcion #3490706387 Street, Apt. No. or PO Box No. GMDC-Rikers Island City, State, ZIP East Elmhurst, New York 11370			
PS Form 3800, January 2001		See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Elvin Concepcion #3490706387 GMDC-Rikers Island East Elmhurst, New York 11370		B. Received by (Printed Name) _____ C. Date of Delivery _____	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: _____			
2. Article Number (Transfer from service label) 7001 0360 0003 4412 4667		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes			

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

4412	Postage \$ _____
4412	Certified Fee _____
0003	Return Receipt Fee (Endorsement Required) _____
0003	Restricted Delivery Fee (Endorsement Required) _____
0360	Total Postage & Fees \$ _____
Sent To Rene Medina, Esq. 901 Sheridan Avenue, 3 rd floor Bronx, New York 10451	
Postmark Here	
PS Form 3800, January 2001 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	
1. Article Addressed to: Rene Medina, Esq. 901 Sheridan Avenue, 3 rd floor Bronx, New York 10451	
COMPLETE THIS SECTION ON DELIVERY	
A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
B. Received by (Printed Name) 	
C. Date of Delivery <text style="border: 1px solid black; padding: 2px; width: 100px; height: 20px;"></text>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No <text style="border: 1px solid black; width: 100%; height: 40px;"></text>	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

2. Article Number *(Transfer from service label)* 7001 0360 0003 4412 4674